LAW WALLAH

Legal Xpress

Legal Reasoning Magazine

CLAT, AILET & OLETS

JUNE
2024

CONTENTS

1 Oral Dying Declaration Can Form Basis For Conviction If Deponent Of Fit Mind And Truthful, But Prudent To Look For Corroboration: Gujarat HC

Introduction

In a recent judgment, the Gujarat High Court upheld the acquittal of an accused in a murder case, emphasizing the need for corroboration of an oral dying declaration. The division bench of Justices Ilesh J. Vora and Niral R. Mehta stated that while an oral dying declaration can form the basis of a conviction if the deponent is in a fit state and truthful, prudence requires seeking corroboration to ensure reliability.

The case involved the 1997 murder of Ranchhodbhai and his son Arvind, allegedly by Shashikant Patel and others. Arvind's oral dying declaration to a police witness was questioned due to the lack of corroboration and his critical condition. The Court found no error in the Trial Court's decision to acquit the accused, agreeing that the oral declaration alone was insufficient for conviction.

The case, titled "**State of Gujarat vs. Shashikant Gordhanbhai Patel & Ors**". (R/CRIMINAL APPEAL NO. 816 of 1999), was decided by Justice Ilesh J. Vora and Justice Niral Mehta.

Facts

The present appeal by the State challenges the judgment and order of acquittal rendered by the learned Additional Sessions Judge, Kheda, Camp at Anand, dated 12.04.1999. The respondents were acquitted of offenses under Sections 302, 323, 365, 342, 147, 148 and 149 of the Indian Penal Code. Dissatisfied with this judgment, the State has filed the current appeal under Section 378 of the Cr.P.C.

Issue

Whether the oral dying declaration is deemed truthful?

Arguments on Behalf of the Appellant

Mr. L.B. Dabhi, the learned Additional Public Prosecutor for the appellant – State, argued that the findings of acquittal are contrary to the law and the evidence on record. He asserted that the trial court's findings were palpably erroneous and based on irrelevant material. The trial court should have considered the oral dying declaration of the deceased, which was made voluntarily when the deceased was in a fit state of mind. Janardan Mahida (PW-16), an independent witness, had no reason to falsely implicate the accused. By disregarding this material evidence, the trial court committed an error of law in concluding that the prosecution failed to prove its case.

Arguments on Behalf of the Respondent

The learned counsel for the respondents argued that the High Court can interfere in an appeal against acquittal only when there are compelling and substantial reasons, particularly if the findings are without reason, unreasonable, or contrary to the evidence. In this case, there is no direct evidence; the evidence available is the oral dying declaration made before the police officials (PW-16), which the trial court did not find reliable. The deceased, Arvind, was in a semi-unconscious state when brought to the hospital and was declared 'brought dead' by the doctor. Medical evidence established that the deceased could not speak due to his injuries, thus justifying the trial court's decision to disbelieve the oral dying declaration.

High Court's Observations

The High Court, after considering the arguments presented by the counsel, stated, "The Apex Court in various judgments has emphasized that a mechanical approach in relying on a dying declaration merely because it exists is extremely dangerous. It is the Court's duty to examine a dying declaration with great scrutiny to determine if it is voluntary, truthful, made in a conscious state of mind, and not influenced by relatives present or the investigating agency, who may have vested interests".

The Court noted that the deceased's family members, who were examined before the Trial Court, did not mention that the deceased made an oral dying declaration to the police nor did they provide any insight into it. "Witness PW-16 Janardan Mahida, in his testimony, did not confirm that the deceased was in a fit state of mind and capable of understanding what he was saying at the time of the oral declaration. Given these circumstances, the trial Court rightly sought corroboration for the oral declaration since the deceased succumbed to his injuries within three to four minutes, leading to the conclusion that the oral declaration made before the witness cannot be the basis for conviction", the Court added.

The Court further stated that the reasons for not accepting the oral dying declaration are reasonable and supported by the evidence on record. The trial Court's view is plausible, and there is no perversity in the findings warranting interference. "Thus, in our considered opinion, the trial Court was justified in acquitting the accused. We fully agree with the findings, ultimate conclusion, and resultant order of acquittal recorded by the lower court and see no reason to interfere", the Court concluded. Accordingly, the High Court dismissed the appeal.

Held

The court dismissed the present appeal, holding that, "The law is well settled that an oral dying declaration can form the basis of conviction if the deponent is in a fit condition to make the declaration and if it is found to be truthful. Courts, as a matter of prudence, look for corroboration of oral dying declarations. However, if there exists any suspicion regarding the correctness of the said dying declaration, courts, in arriving at a conclusion of conviction, shall look for corroborating evidence".

Dying Declaration

Introduction

Whenever an offense has been committed, two individuals are intimately aware of what actually transpired: the accused, who committed the offense, and the victim, against whom the offense was committed.

To prove their positions and validate their stories, both parties provide statements to the judge. However, the reliability of these statements can be questionable, as they may be biased or untrue. Consequently, the role of witnesses becomes crucial in determining the truth. There is, however, an exception when a statement made by a person is treated as true evidence, despite being in their own favor, and is generally considered credible. This exception is known as a dying declaration.

A dying declaration is a statement made by a person while they are dying, explaining the reason for their impending death. This statement can describe the circumstances or the cause of death. Hence, the statement given just before a person's death is called a dying declaration. A person who is conscious, of sound mind (compos mentis), and aware that death is imminent can make a declaration stating the cause of their death. Such a statement is admissible and treated as evidence in court. The declaration made by the deceased person can be oral, written, or indicated through conduct. The term "dying declaration" itself explains its nature.

Definition

Section 32(1) of the Indian Evidence Act defines when a statement made by a person about the cause of their death, or the circumstances leading to their death, is relevant. This applies in cases where the cause of the person's death is in question. Such statements are considered relevant whether the person was alive or deceased at the time they were made, irrespective of whether they were made under the expectation of death, and regardless of the nature of the proceeding in which the cause of death is being questioned.

The statement made by the deceased person is treated as evidence and is admissible in a court of law. The underlying principle is captured by the Latin maxim *Nemo moriturus praesumitur mentiri*, which means "a man will not meet his maker with a lie in his mouth". In Indian law, it is believed that a dying person does not lie, or as commonly phrased, "truth sits on the lips of a dying man". Therefore, a dying declaration is admissible and considered as evidence in court, and can serve as a critical tool to bring the perpetrator to justice.

Who is Dead?

When a witness who is alive is not produced, their previous statement in a prior proceeding cannot be admitted as evidence, as seen in *Raj Bali v. Deputy Director*. A dying declaration is admissible in evidence only if the declarant dies. If the declarant survives, the statement is not admissible as evidence.

What Happens if the Declarant Survives?

The question arises when a dying declaration is recorded but the declarant does not die. The statement is considered a dying declaration only if the victim or declarant dies. If the declarant survives, they can be used as a witness in court against the accused. The dying statement is recorded under the presumption that the declarant is about to die. However, if the declarant does not die, the statement cannot be admissible as a dying declaration.

Who Can Record Dying Statements?

The best form of a dying declaration is one recorded by a Magistrate. However, according to the Supreme Court's guidelines, anyone can record a dying declaration. It can be recorded by public servants or doctors, especially when the victim is hospitalized and severely injured or burned. A person with 100 percent burns can make a statement, and a doctor's certificate is not a prerequisite for relying on the dying declaration. A dying declaration can also be made to a relative or family member, and it is admissible in the eyes of the law. While courts discourage police officers from recording dying declarations, they can consider them if no other person is available to record the statement. If the statement is not recorded by a Magistrate, it is advisable to have the signatures of the witnesses present at the time of recording the dying declaration. It is essential that the declarant is in a sound state of mind when making the statement.

Type of Dying Declaration Not Admissible

An omnibus statement made by a group of persons, including the deceased, to the witness is not accepted as a dying declaration. A statement by the deceased that includes references to the motive of the accused is also inadmissible. Additionally, a portion of the dying declaration made by one deceased person regarding the cause of death of another deceased person is outside the scope of Section 32(1) and thus inadmissible in evidence.

Grounds for Admitting Dying Declaration

The main reasons for admitting a dying declaration are:

1. The death of the declarant.
2. Excluding the statement of the victim, who is the only eyewitness of the crime, would defeat the ends of justice.
3. An imminent sense of death creates a moral obligation equal to that of an oath.

The principle behind accepting dying declarations is that they are made under extreme conditions.

Methods to Prove a Dying Declaration

1. Statements relating to the declaration of death, whether oral or written, must be duly proved.
2. If the declaration is oral, the person who heard it should record it in writing.
3. If the declaration is written, evidence from the person who recorded it must be provided.
4. If a judge records the dying declaration, the judge must be called to prove it.
5. A dying declaration must be corroborated by other necessary documents or evidence.

Can Conviction Be Solely Based on a Dying Declaration?

In *Ramnath v. State*, the Supreme Court observed that convicting an accused solely on a dying declaration without further corroboration is unsafe, as such a statement is not subject to oath and cross-examination. The declarant may be physically and mentally confused and may draw upon their imagination while making the statement. However, in *Khushal Rao v. State of Bombay*, the Court laid down guidelines indicating that:

1. A dying declaration cannot constitute the sole basis for conviction as an absolute rule of law unless confirmed.
2. It must be evaluated based on its own facts, considering the circumstances surrounding the declaration.
3. A dying declaration is not inherently weaker than other evidence.
4. It must be judged on the basis of the circumstances and principles governing the assessment of evidence.
5. A declaration written by a competent judge, in a proper manner, in question-and-answer form, is more reliable.
6. To test the reliability of a dying declaration, the court must consider the declarant's opportunity for observation and other circumstances. If the court concludes the declaration is truthful, no further corroboration is needed. If not, corroboration is necessary due to inherent weaknesses.

When Does a Dying Declaration Not Require Further Corroboration?

Once the court concludes that the dying declaration is the true version of the circumstances and the victim's assailants, no further corroboration is needed (as in *Khushal Rao v. State of Bombay*).

When There Are Multiple Dying Declarations

1. In cases with conflicting dying declarations, such as one recorded by a doctor and another by a non-competent

witness, the reliable one is preferred (*Harbans Lal v. State of Haryana*).

2. When inconsistent dying declarations are present, it is not possible to select one and base the conviction solely on it (*Kamla v. State of Punjab*).

Landmark Cases

1. In *Uka Ram v. State of Rajasthan*, the Court held that a statement regarding the cause of death or circumstances leading to death is admissible as evidence.
2. In *Chirra Shivraj v. State of Andhra Pradesh*, the Court stated that relying solely on a dying declaration is dangerous without ensuring it is voluntary, genuine, and made in a conscious state of mind.
3. In *Sudhakar v. State of Madhya Pradesh*, the Apex Court emphasized that a dying declaration must be free from tutoring or encouragement, and the person recording it must ensure the declarant's fit state of mind.
4. In *Uttar Pradesh v. Madan Mohan*, the court stated that the dying declaration must inspire complete confidence, and any possibility of tutoring or prompting must be ruled out.
5. In *Kusa v. State of Orissa*, the Supreme Court held that an incomplete dying declaration is unreliable, but if the main story is told, it can be relied upon.

Conclusion

Various court opinions indicate that strict guidelines must be followed when recording a dying declaration. Courts have the power to reject a dying declaration if deemed unreliable. It is clear that while a dying declaration is a significant piece of evidence, it must be carefully and duly proven to be admissible in court.

2 Punjab and Haryana HC: DNA Report Alone Cannot Exonerate in POCSO Cases

Introduction

The Punjab and Haryana High Court ruled that a DNA report favoring the accused cannot be the sole basis for canceling a case under the Protection of Children from Sexual Offences (POCSO) Act. Justice Harpreet Kaur Jeewan emphasized that the minor victim's consistent statement and medical evidence must also be considered.

The Court rejected the anticipatory bail plea of a 37-year-old accused of raping his 15-year-old neighbor, despite DNA results not linking him to the crime. The Court noted that the victim's detailed account and medical history provided sufficient grounds to proceed with the case, highlighting the gravity of the offense and the provisions of the POCSO Act.

Background of the Case

The case originated in December 2022 when a 15-year-old girl reported that her 37-year-old neighbor had forcibly taken her to a field and raped her. Despite the police investigation suggesting no link between the accused and the victim and a DNA test exonerating the accused, the court found these grounds insufficient for canceling the case.

Observations of the Court

Justice Harpreet Kaur Jeewan stated, "Considering the comprehensive definition of penetrative sexual assault, the non-matching DNA of the petitioner-accused with the victim's vaginal swab and the absence of human semen from the vaginal swab do not eliminate the possibility of penetrative sexual assault, especially since the minor victim supported her account in a statement recorded under Section 164 Cr.P.C.". The court made this observation while denying anticipatory bail to an accused in a rape case.

Justice Jeewan highlighted that the DNA comparison was based on requests from the accused's family rather than an independent investigation. "According to the medico-legal report, the victim reported a sexual assault at a farmhouse on 04.12.2022. Four vaginal swabs were taken for DNA analysis. The victim reaffirmed her account in the statement recorded under Section 164 Cr.P.C. on 09.12.2022 before the Magistrate", the court noted.

The court emphasized that the recommendation to cancel the case was misguided and contrary to the provisions of the POCSO Act. It referenced a Supreme Court ruling, stating that while a positive DNA result is compelling evidence, other material evidence must also be considered if the DNA result favors the accused.

Court's Decision

The Punjab and Haryana High Court underscored that police cannot cancel a case of penetrative sexual assault under the Protection of Children from Sexual Offences (POCSO) Act solely based on a favorable DNA report for the accused. Justice Harpreet Kaur Jeewan clarified that when a minor victim stands by her testimony under Section 164 of the Code of Criminal Procedure (CrPC), a non-matching DNA result does not rule out the possibility of the offense.

"The offense alleged to have been committed by the petitioner is grievous in nature. Under Section 4 of the Act of 2012, a minimum punishment of seven years is prescribed, which may extend to life imprisonment. Merely on the basis of a favorable DNA examination report, the petitioner is not entitled to pre-arrest bail, especially considering his proximity as a neighbor to the victim, the significant age difference, and the lack of prior enmity between them", the court concluded.

Relevant Provisions

1. **Protection of Children from Sexual Offences (POCSO) Act, 2012**:
   - **Section 4**: This section prescribes the punishment for penetrative sexual assault. It states that anyone who commits penetrative sexual assault shall be punished with imprisonment of not less than seven years, which may extend to life imprisonment, and shall also be liable to a fine. This provision is used to emphasize the severity of the alleged offense.
2. **Code of Criminal Procedure (CrPC)**:
   - **Section 164**: This section deals with the recording of confessions and statements. It allows a magistrate to record any confession or statement made to him during the course of an investigation. Statements made under this section are considered important as they are recorded by a magistrate and are expected to be given voluntarily and truthfully. In this case, the minor victim's statement recorded under Section 164 is crucial as it corroborates her allegation of sexual assault.
3. **Indian Evidence Act, 1872**:
   - **Admissibility of Dying Declaration**: Although not directly mentioned, the principle behind the dying declaration parallels the idea that statements made under certain extreme conditions (like those recorded under Section 164 CrPC) carry significant weight in judicial proceedings.
   - **Section 32(1)**: This section deals with cases in which statements, written or verbal, are relevant facts. For example, it includes statements made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question. While this section is typically about dying declarations, it underscores the importance of statements made under serious circumstances, similar to those made under Section 164 CrPC.

Explanation of Case Context

- **Severity of Offense**: The court emphasizes the serious nature of the offense under the POCSO Act, highlighting the significant penalties involved (minimum seven years to life imprisonment).
- **DNA Evidence**: While DNA evidence is powerful, it is not the sole determinant of guilt or innocence. The court stresses that a favorable DNA report for the accused does not automatically entitle them to bail or case dismissal, especially when other substantial evidence, such as the victim's consistent testimony and medical evidence, exists.
- **Victim's Statement**: The minor victim's testimony, recorded under Section 164 CrPC, holds significant weight. The court recognizes the importance of the victim's statement in corroborating the allegations, even if DNA evidence does not directly implicate the accused.
- **Judicial Discretion**: The court underscores the necessity of considering all evidence comprehensively rather than relying solely on the DNA report, ensuring justice is served based on a holistic view of all available evidence.

Conclusion

This ruling underscores the importance of comprehensive evidence evaluation in POCSO cases, asserting that a non-matching DNA result alone does not suffice to dismiss allegations, especially when corroborated by the victim's testimony and medical evidence.

3 Government Employees cannot Claim Promotion as their Right: Supreme Court

Introduction

The Supreme Court has stated that the Constitution is silent on the criteria for granting promotions to government servants and has ruled that the legislature and executive are free to establish norms for promotion, considering the nature, functions, and requirements of the promotional post. A bench comprising Chief Justice of India D Y Chandrachud and Justices J B Pardiwala and Manoj Misra, in a recent judgment, said, "In India, no government servant can claim promotion as their right because the Constitution does not prescribe criteria for filling seats in promotional posts".

Background of the Case

The matter revolves around the promotion process for Civil Judges (Senior Division) to the cadre of District Judges in Gujarat. In this case, two judicial officers of the rank of Civil Judge (Senior Division), governed by the Gujarat State Judicial Service Rules, 2005, invoked the jurisdiction of the Supreme Court under Article 32 of the Constitution. Their grievance against the Gujarat High Court was that it erroneously applied the principle of 'Seniority-cum-Merit' in the recruitment undertaken in 2022 for the promotion of Civil Judges (Senior Division) to the post of Additional District Judge against a 65% quota, despite Rule 5(1) of the 2005 Rules stipulating that the promotion should be based on the principle of 'Merit-cum-Seniority'.

Key Observations: Government Employees Promotion Rights Clarification

1. **No Intrinsic Right to Promotion:** The Court reiterated that government employees cannot claim promotion as a matter of right because the Constitution does not prescribe criteria for promotions. The Court stated, "In India, no government servant can claim promotion as their right because the Constitution does not prescribe criteria for filling seats in promotional posts".
2. **Legislative and Executive Domain:** The policy of promotions falls within the domain of the legislature or executive, with limited scope for judicial review. Courts can intervene only if the promotion policy violates the principle of equal opportunity under Article 16 of the Constitution. The Court observed, "The Legislature or the executive may decide the method for filling vacancies to promotional posts based on the nature of employment and the functions that the candidate will be expected to discharge".

3. **Merit-Cum-Seniority Principle:** The Court upheld the merit-cum-seniority principle for promotions, acknowledging that such policies are essential for selecting the best candidates for higher responsibilities. "The courts cannot sit in review to decide whether the policy adopted for promotion is suited to select the 'best candidates', unless on the limited ground where it violates the principle of equal opportunity under Article 16 of the Constitution", the judgment noted.

Decision

During the proceedings, the Supreme Court bench explained the principles of 'Merit-cum-Seniority' and 'Seniority-cum-Merit'. The bench clarified that 'Merit-cum-Seniority' in the context of the 2005 Rules means that both merit and seniority are considered in the promotion of a candidate, with merit being determined based on a suitability test. It also addressed the question of whether the promotion of Civil Judges (Senior Division) to the cadre of District Judges, in accordance with Rule 5(1) of the 2005 Rules and the Recruitment Notice dated 12.04.2022 issued by the High Court of Gujarat, was contrary to the principle of 'Merit-cum-Seniority' as laid down in the All India Judges' Association case.

After hearing the contentions from both sides, the Supreme Court bench dismissed the writ petition and upheld the promotion process adopted by the Gujarat High Court. The bench noted that it would be incorrect to conclude that the process did not adhere to the principle of 'Merit-cum-Seniority' simply because the test was not one of comparative merit and seniority was applied at the final stage of the selection process. The bench further held that the criteria prescribed for the promotion of candidates to the 65% promotional quota complied with the principle of 'Merit-cum-Seniority'.

The Supreme Court bench pointed out that the terms 'Merit-cum-Seniority' and 'Seniority-cum-Merit' are not statutorily defined by the legislature. Instead, these principles are judicial connotations that have evolved over years through various decisions of the Supreme Court and High Courts in matters of promotion pertaining to different statutes and service conditions. The SC observed that these principles are flexible and fluid concepts, akin to broad principles within which the actual promotion policy may be formulated. They are not strict rules or requirements and cannot supplant or take the place of statutory rules or policies that have been formulated. The application and ambit of these principles depend on the rules, policy, nature of the post, and service requirements.

Concluding the judgment, the Supreme Court stated, "We have reached the conclusion that the impugned final Select List dated 10.03.2023 is not contrary to the principle of 'Merit-cum-Seniority' as stipulated in Rule 5(1)(I) of the 2005 Rules". Therefore, the Supreme Court bench dismissed the present petition.

Recommendations for Improvement

The Supreme Court suggested that the Gujarat High Court could amend its Rules to incorporate a more detailed suitability test, similar to the Uttar Pradesh Higher Judicial Service Rules, 1975. This includes adding a Viva Voce component, increasing the passing thresholds, and considering the quality of judgments from the past two years instead of one.

Historical Context of Promotion Policies

- **Colonial Era:** During the British Raj, the East India Company (EIC) promoted officials based on seniority, a practice officially recognized in the Charter Act of 1793. This method continued until the Indian Civil Service Act (ICS) of 1861 introduced promotions based on both seniority and merit, integrity, competence, and ability.
- **Post-Independence:** After independence, the First Pay Commission in 1947 recommended a mix of direct recruitment and promotions, with seniority for roles requiring office experience and merit for higher positions. Subsequent commissions in 1959 and 1969 supported merit-based promotions alongside seniority.

Principle of Seniority

The principle of seniority was seen as a reflection of loyalty and a means to reduce favoritism. It was believed that long-serving employees demonstrated loyalty to the organization and deserved fair treatment in promotions. The Court noted, "The principle of seniority as a parameter of selection for promotion was found to be derived from the belief that competence is related to experience and that it limits the scope of discretion and favoritism".

Judicial Perspective on Promotion Policies of Government Employees

- **Ravikumar Dhansukhlal Mehta Case:** The Supreme Court's decision in the Ravikumar Dhansukhlal Mehta case underscores that the government or the legislature can determine promotion criteria based on the nature of employment and job functions. The Court can only intervene if the promotion policy violates Article 16's principle of equal opportunity.
- **Judicial Review Limitations:** The Court highlighted that judicial review of promotion policies is limited. Courts cannot decide if the policy is suited to select the best candidates unless it contravenes the equality principle. This reinforces the idea that promotion policies should primarily be crafted and implemented by the legislative or executive branches.

Conclusion: Upholding Employee Promotion Rights

The Supreme Court's ruling provides clarity on Government Employee Promotion Rights, emphasizing that such promotions are not a constitutional right but a policy matter for the legislature and executive. By upholding the merit-

cum-seniority principle and suggesting improvements to the suitability test, the Court aims to ensure a fair and efficient promotion process that aligns with the principles of merit and equity.

This Supreme Court decision on Promotion Policy marks a significant step in delineating the boundaries of judicial intervention in promotion policies, ensuring that promotions are conducted in a manner that respects both the merit of candidates and the principles of equal opportunity.

4 Mesne Profits on continuation of possession payable only after 'expiry of lease' or even after 'determination, forfeiture or termination'? SC answers

Introduction

The Supreme Court of India has decided that tenants who remain in rented properties after their tenancy rights have ended are required to compensate landlords with 'mesne profit.' This ruling highlights the legal responsibility of tenants to pay for using the property beyond the agreed-upon rental period.

Case Background

In the recent case of **Bijay Kumar Manish Kumar HUF vs. Ashwin Bhanulal Desai**, the Supreme Court of India ruled that once an eviction decree is passed, the tenancy is terminated, and from that point forward, the landlord is entitled to mesne profits or compensation for being deprived of the premises. The bench, consisting of Justice Sanjay Karol and Justice JK Maheshwari, stated that a tenant who lawfully entered the property but remains in possession after their right to do so has expired must compensate the landlord for the period beyond the expiration of their occupancy rights. This decision came while the Supreme Court was hearing a series of Special Leave Petitions (SLPs) challenging a judgment by the Calcutta High Court, which upheld the applicability of the West Bengal Tenancy Act, 1997. In this case, the petitioner-applicant had filed a suit due to non-payment of rent, which was rejected by both the Civil Court and the High Court, leading to the matter being brought before the Supreme Court.

Observations & Decision

The Court noted that the lease was 'forfeited' due to non-payment of rent by the tenant. According to Corpus Juris Secundum, 'forfeiture' is defined as "the right of the lessor to terminate a lease because of lessee's breach of covenant or other wrongful act". The Court referred to the case of Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd., (2005) 1 SCC 705, where it was observed that "the tenant having suffered an order for eviction must comply and vacate the premises. His right of appeal is statutory, but his prayer for grant of stay is dealt with in the exercise of the equitable discretionary jurisdiction of the appellate court. While ordering a stay, the appellate court has to be aware that it is depriving the successful landlord of the fruits of the decree and is postponing the execution of the order for eviction. There is every justification for the appellate court to put the appellant tenant on terms and direct the appellant to compensate the landlord by payment of a reasonable amount which is not necessarily the same as the contractual rate of rent".

The Court reiterated that tenants shall be liable to pay a rent equivalent to mesne profit from the date they are found not entitled to retain possession of the premises. The Court also referred to Martin and Harris (P) Ltd. v. Rajendra Mehta, (2022) 8 SCC 527, which stated that the determination of mesne profits depends on the facts and circumstances of each case, considering factors such as the location of the property (village, city, or metropolitan area), the nature of the premises (commercial or residential), and the prevailing rental rates.

Upon reviewing several judgments, the Court noted that once an eviction decree is passed and stayed, it raises the question of payment of mesne profit. The Court held that a tenant who entered the property lawfully but continues in possession after their right to do so has ended is liable to compensate the landlord for the period beyond the right of occupancy. The Court referred to Indian Oil Corporation Ltd. v. Sudera Realty Private Limited, 2022, which established that a tenant continuing in possession after the lease expiry is liable to pay mesne profits.

The Court also noted that the lease deed was disputed regarding its continuation or forfeiture due to non-payment, affecting the nature of the payment to be made. Taking a comprehensive view of the dispute, the Court observed that the tenant was delaying payment of rent and other dues, depriving the landlord of substantial monetary benefits as evidenced by the unchallenged market report. To ensure justice, the Court directed the deposit of the amount claimed by the petitioner-landlord.

The Court emphasized that the purpose of renting out property is for the landlord to secure income. If the income remains static or, as in this case, yields no income, the landlord has the right to be aggrieved, subject to the agreement with the tenant. However, the Court clarified that since the Special Leave Petitions were pending, the directions were subject to the final outcome of the case.

Considering the location of the premises in the heart of Kolkata, the agreed rent, the alleged non-payment, default in interest payment, and other factors, the Court accepted the petitioner's calculation of dues. Thus, the Court directed the tenant to deposit ₹5,15,05,512/- with the Registry of the Court within four weeks from the date of the decision.

Definition of 'Tenant at Sufferance'

A 'tenant at sufferance' is defined as a tenant who initially enters the property lawfully but continues in possession after the lawful title has ended. Justice Sanjay Karol, who authored the judgment, affirmed that such tenants are liable to pay mesne profit for the duration of their unauthorized occupancy.

Legal Precedent: Supreme Court's Stance on Mesne Profit

Compensation for Post-Tenancy Occupancy

The Supreme Court referenced its earlier decision in Indian Oil Corporation Ltd. v. Sudera Realty Private Limited, 2022 (SC) 744, where it was established that a tenant continuing in possession after the lease expiry must pay mesne profits. The Court stated:

"In our considered view, the effect of the words 'determination', 'expiry', 'forfeiture' and 'termination' would, subject to the facts applicable, be similar, i.e., when any of these three words are applied to a lease, henceforth, the rights of the lessee/tenant stand extinguished or in certain cases metamorphosed into weaker iteration of their former selves… Therefore, in any of these situations, mesne profit would be payable".

Implications of the Ruling

The ruling has significant implications for tenants and landlords, emphasizing that tenants cannot continue to occupy property without compensating the landlord once their lawful right to do so has ended. The Court concluded:

"We may record a prima facie view that the respondent-tenant has, for reasons yet undemonstrated, been delaying the payment of rent and/or other dues payable to the petitioner-applicant landlord. This denial of monetary benefits accruing from the property, when viewed in terms of the unchallenged market report forming part of the record, is undoubtedly substantial. As such, subject to just exceptions, we pass this order for deposit of the amount claimed by the petitioner-applicant, to ensure complete justice between the parties".

Mesne Profits under the Code of Civil Procedure, 1908

Section 2(12) Definition

Section 2(12) of the Code of Civil Procedure, 1908 defines "mesne profits" as the profits which a person in wrongful possession of property actually received or might with ordinary diligence have received, except those profits due to improvements made by the wrongful possessor.

Interpretation by Delhi High Court

In the notable case of **Phiraya Lal Alias Piara Lal vs Jia Rani And Anr (1973)**, the Delhi High Court interpreted "mesne profits" as damages claimed to recover the loss resulting from the wrongful occupation of immovable property by a trespasser, originally belonging to the party claiming the damages.

Key Takeaways from Section 2(12)

1. **Importance of Due Diligence:** The definition emphasizes the need for due diligence in obtaining mesne profits.
2. **Unlawful Occupation:** Mesne profits can only be awarded if the property was unlawfully occupied, thereby depriving the original owner of their rights.
3. **Interest as a Fundamental Part:** Interest is an integral component of mesne profits under Section 2(12).

Order XX Rule 12

Order XX Rule 12 of the Code of Civil Procedure, 1908 provides for the passing of a decree by a competent civil court in cases involving the recovery of possession of immovable property, rent, or mesne profits. In such suits, the civil court relies on Rule 12 of Order XX to determine the rights of the parties concerning mesne profits.

In essence, **Order XX Rule 12** ensures that when a suit for recovery of immovable property, rent, or mesne profits is presented, the court has a clear procedural framework to adjudicate and decree the rights of the parties involved.

Circumstances When Mesne Profit Is Not Granted

While mesne profits are often awarded to original owners due to wrongful possession of their property, there are scenarios where courts disallow such claims. Here are some key circumstances:

1. **Joint Family Property and Joint Possession**
   - **Case Reference:** Smt. Subashini vs S. Sankaramma (2018)
   - **Court:** Telangana High Court
   - **Summary:** If the immovable property in question is a joint family property, and both the appellant and the respondent are joint owners, the appellant cannot claim mesne profits. This is because the respondent, being a joint owner, is not in wrongful possession of the property.
2. **Absence of Court Order or Decree**
   - **Case Reference:** Krishna N Bhojwani vs. Assessee (2021)
   - **Court:** Income Tax Appellate Tribunal
   - **Summary:** A court order or decree is a prerequisite for the grant of mesne profits. In this case, mesne profits were disallowed because there was no existing order or decree from any civil court that could enforce the mesne profit. Consequently, the appellant was prohibited from claiming mesne profits.

Conclusion: Impact of Supreme Court's Mesne Profit Judgement

The Supreme Court Judgement on Mesne Profit reaffirms the legal principle that tenants must compensate landlords for continued occupancy post-tenancy expiry. This decision ensures that landlords are protected from financial loss due to tenants unlawfully retaining possession of rented premises.

5 Government of NCT of Delhi & Anr. v. M/s BSK Realtors LLP & Anr. (and connected matters): Res Judicata May Not Apply Strictly When Public Interest is at Stake

Introduction

In a landmark decision, the Supreme Court ruled that the principle of res judicata may not strictly apply when public interest is at stake. This verdict emerged from a series of land acquisition cases involving the Delhi government under the 1894 Land Acquisition Act. The bench, comprising Justices Surya Kant, Dipankar Datta, and Ujjal Bhuyan, highlighted the need for a flexible judicial approach in matters of significant public interest.

This decision stemmed from disputes where landowners challenged the acquisition process, leading to varied judicial outcomes. The Supreme Court emphasized that prior rulings do not necessarily bar subsequent litigation in cases involving overarching public interest, ultimately favoring the Delhi government and its entities.

Background of the Case

Between 1957 and 2006, the Delhi government initiated land acquisition proceedings under the Land Acquisition Act, 1894. This act was replaced by the Land Acquisition Act, 2013, which included Section 24, stipulating conditions under which acquisition proceedings could be deemed lapsed. The Delhi High Court, referencing cases like Pune Municipal Corporation, ruled that certain acquisition proceedings had lapsed.

Subsequently, Delhi government entities such as the Delhi Metro Rail Corporation (DMRC) and the Delhi Development Authority (DDA) appealed these High Court decisions to the Supreme Court. In 2020, the Supreme Court's decision in the Indore Development Authority case clarified the conditions for lapsing under Section 24. Following this clarification, the Delhi government requested a reconsideration of the High Court's rulings.

The Supreme Court allowed for this reconsideration, with a Civil Appeal led by M/s BSK Realtors LLP. Initially, the Delhi High Court had ruled the acquisition proceedings lapsed under Section 24(2) of the Land Acquisition Act, 2013, and the Supreme Court dismissed DDA's appeal against this ruling in 2016.

The Government of National Capital Territory of Delhi (GNCTD) filed a Special Leave Petition (SLP) in the Supreme Court, seeking reconsideration in light of the Indore Development Authority decision. M/s BSK Realtors LLP raised a preliminary objection regarding the SLP's maintainability, arguing that previous orders had merged and that GNCTD had already participated in earlier litigation.

The appellant-authorities contended that the Manoharlal decision applied retrospectively from January 1, 2014, thus rendering the Supreme Court's earlier orders ineffective under the principle of res judicata as per the Civil Procedure Code, 1908 (CPC), due to the change in law. They also argued that they were not adequately represented in the initial litigation.

The landowners countered that res judicata applied, noting that the GNCTD and beneficiary entities like the DDA shared a common interest in land acquisition for public purposes. They maintained that the dismissal of a civil appeal by one authority in the first round should be binding on the other in subsequent litigation. They further asserted that when one party litigates, it effectively represents all parties with an interest in the matter.

Observations of the Court

The court observed that the decision in the first round of litigation could not act as res judicata to prevent the second round, particularly in cases involving significant public interest. It was noted that the GNCTD and DDA did not have conflicting interests either in the High Court or the Supreme Court, and there were no disputed issues between them in the initial litigation.

Taking public interest concerns into account, the court allowed most of the appeals filed by the Delhi government and issued appropriate directions. Separate orders were passed for other cases.

The bench, comprising Justices Surya Kant, Dipankar Datta, and Ujjal Bhuyan, emphasized that in such scenarios, "a more flexible approach ought to be adopted by courts, recognizing that certain matters transcend individual disputes and have far-reaching public interest implications".

Res Judicata Explained

Res Judicata: This legal doctrine means "a thing which has been decided". It prevents the same parties from litigating the same issue more than once. The principle is based on several maxims:

1. **Interest Republicae Ut Sit Finis Litium:** It is in the state's interest that litigation should have an end.
2. **Nemo Debet Bis Vexari Pro Una Et Eadem Causa:** No one should be vexed twice for the same cause.
3. **Res Judicata Pro Veritate Accipitur:** A judicial decision must be accepted as correct.

Section 11 of the Civil Procedure Code (CPC)

Section 11 – Res Judicata

No court shall try any suit or issue in which the matter has already been directly and substantially in issue in a former suit between the same parties, or parties claiming under them, and has been heard and finally decided by a competent court.

Explanations under Section 11

1. **Explanation I:** A former suit is one that has been decided prior to the suit in question, regardless of when it was instituted.
2. **Explanation II:** The competence of a court is determined irrespective of any right of appeal from its decision.
3. **Explanation III:** The matter in the former suit must have been alleged by one party and either denied or admitted by the other.
4. **Explanation IV:** Any matter that might and ought to have been raised in the former suit is deemed to have been directly and substantially in issue.
5. **Explanation V:** Any relief claimed in the plaint that is not expressly granted by the decree is deemed to have been refused.
6. **Explanation VI:** Persons litigating bona fide in respect of a public or private right claimed in common for themselves and others are deemed to claim under the persons so litigating.
7. **Explanation VII:** The provisions apply to the execution of a decree as well, where references to a suit or issue are construed as references to proceedings for execution of the decree.
8. **Explanation VIII:** An issue heard and finally decided by a court of limited jurisdiction will operate as res judicata in a subsequent suit, even if the court was not competent to try the subsequent suit.

Relevant Landmark Cases

1. **Pune Municipal Corporation & Anr. v. Harakchand Misirimal Solanki & Ors. (2014):**
   - The Supreme Court held that if compensation for land acquired under the 1894 Act was not paid or deposited with a competent court and retained in the treasury, the acquisition would be deemed to have lapsed under the 2013 law, entitling landowners to higher compensation.
2. **Indore Development Authority v. Manoharlal (2020):**
   - The Court ruled that landowners cannot insist on compensation being deposited in court to sustain land acquisition proceedings under the old Act after the new land acquisition law came into effect on January 1, 2014.

Application in Context

In cases where the court needs to consider the doctrine of res judicata, it ensures that the same parties do not relitigate the same issues, maintaining judicial efficiency and consistency. The principle applies if a matter has already been decided between the same parties by a competent court.

In the context of the land acquisition proceedings mentioned, the doctrine of res judicata would prevent the re-litigation of issues that have already been decided in earlier cases, unless significant public interest is at stake, as seen in the cases handled by the Delhi government and the Supreme Court. The Supreme Court has allowed flexibility in certain matters with far-reaching public interest implications, deviating from the strict application of res judicata.

6 Removing Girl's Innerwear, Self-Undressing Not 'Attempt to Commit Rape' : Rajasthan HC

Introduction

The Rajasthan High Court has made a significant ruling regarding the interpretation of certain actions in the context of the offense of "attempt to commit rape". According to the court, merely removing a girl's innerwear and undressing oneself, without any further actions, does not fulfill the criteria for the offense of "attempt to commit rape" under Section 376 read with Section 511 of the Indian Penal Code (IPC). Instead, such actions are classified as "assault to outrage the modesty of a woman", which is punishable under Section 354 of the IPC.

The decision was made by a bench led by Justice Anoop Kumar Dhand.

The bench highlighted the necessity to distinguish between different levels of criminal conduct to ensure that the charges reflect the nature of the actions committed.

Brief History of Case

In this particular case, the Rajasthan High Court was hearing an incident that occurred on March 9, 1991, in Todaraisingh, Tonk district. The complainant reported that his 6-year-old granddaughter was drinking water at a Pyau (Water Booth) when the accused, Suvalal, approached her around 8:00 pm. Suvalal allegedly forcefully took the girl into a nearby Dharamshala with the intent to commit rape. However, when the girl raised a hue and cry, villagers arrived and rescued her, potentially preventing the accused from committing rape.

Key Points of the Case

1. **Incident Details:**
   - The complainant's granddaughter, aged about 6 years, was at the Pyau when Suvalal forcefully took her into a Dharamshala.
   - The girl's cries for help attracted the attention of villagers, who intervened and rescued her.
2. **Accused's Actions and Age:**
   - The accused, Suvalal, was 25 years old at the time of the incident.
   - The complainant stated that, if not for the intervention of the villagers, Suvalal might have committed rape.

Legal Analysis and Court Ruling on Attempt to Commit Rape vs. Indecent Assault

The Rajasthan High Court provided a detailed explanation of what constitutes an "attempt to commit rape" under

Section 376 read with Section 511 of the Indian Penal Code (IPC) and how it differs from an "indecent assault" under Section 354 IPC.

Key Legal Principles

1. **Three Stages of Criminal Attempt:**
   - **Intention:** The accused must first have the intention to commit the offense.
   - **Preparation:** The accused must make preparations to commit the offense.
   - **Execution (Overt Act):** The accused must take deliberate steps towards committing the offense. This act must be reasonably proximate to the commission of the crime but does not necessarily need to be the final act before the crime's completion.
2. **Distinguishing Between Attempt and Preparation:**
   - An attempt involves actions that go beyond mere preparation. The actions must be deliberate and demonstrate a clear intention to commit the offense, being close enough to the consummation of the offense.
   - Acts that do not reach the level of an overt step towards committing the crime are considered indecent assault under Section 354 IPC.

Case References

1. **Sittu v. State of Rajasthan:**
   - The court found that the accused's actions of forcibly undressing the girl and attempting penetration constituted an attempt to commit rape.
2. **Damodar Behera v. State of Orissa:**
   - The accused fled after removing the victim's saree without further acts. The court classified this as indecent assault under Section 354 IPC.

Application to the Present Case

- **Allegations:** The accused, Suvalal, allegedly undressed himself and the 6-year-old prosecutrix but fled when she cried out.
- **Court's Decision:**
  - The court held that merely undressing the prosecutrix and himself does not constitute an attempt to commit rape. There must be additional steps that show a clear intent to complete the crime.
  - The court concluded that Suvalal's actions amounted to indecent assault under Section 354 IPC, as his actions did not progress beyond the preparation stage.

Court's Statement

"The first stage exists when the culprit first entertains the idea or intention to commit an offence. In the second stage, he makes preparations to commit it. The third stage is reached when the culprit takes deliberate overt steps to commit the offence. Such overt act or step in order to be 'criminal' need not be the penultimate act towards the commission of the offence. It is sufficient if such act or acts were deliberately done and manifest a clear intention to commit the offence aimed, being reasonably proximate to the consummation of the offence".

Conclusion

Given the specifics of the case where the appellant undressed himself and the prosecutrix but did not take further steps towards committing rape, the court ruled: "Looking to the fact that the allegations have been levelled against the appellant, that he took off the inner wear of the prosecutrix 'D' and also undressed himself, certainly, such act of the appellant does not amount to commission of offence under Section 376/511 IPC... In other words, accused appellant cannot be held to be guilty of attempt to commit rape. The prosecution has been able to prove the case of assault or use of illegal force on the prosecutrix 'D' (PW-2) with an intention to outrage her modesty or with knowledge that her modesty was likely to be outraged. Thus, it is a clear case of Section 354 I.P.C. as the act of the present accused has not proceeded beyond the stage of preparation".

Relevant Provisions

In the case described, the relevant provisions of the Indian Penal Code (IPC) are Sections 376 read with 511, and Section 354. Here's a detailed explanation of these provisions and how they apply:

1. Section 376 IPC - Punishment for Rape

Section 376 prescribes the punishment for the offense of rape. Under this section, anyone found guilty of committing rape faces a stringent punishment which can include rigorous imprisonment for a term not less than seven years, which may extend to imprisonment for life, and shall also be liable to a fine.

2. Section 511 IPC - Punishment for Attempting to Commit Offenses Punishable with Imprisonment for Life or Other Imprisonments

Section 511 of the IPC provides the punishment for attempting to commit offenses that are punishable with life imprisonment or any other imprisonment. According to this section:

- Whoever attempts to commit an offense and does any act towards the commission of the offense shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of any description provided for the offense, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offense, or with such fine as is provided for the offense, or with both.

3. Section 354 IPC - Assault or Criminal Force to Woman with Intent to Outrage Her Modesty

Section 354 deals with the assault or use of criminal force on a woman with the intent to outrage her modesty. The key elements of this section include:

- **Assault or Criminal Force:** There must be an assault or use of criminal force on a woman.
- **Intent:** The act must be done with the intention or knowledge that it will outrage the woman's modesty.
- **Punishment:** The offense is punishable with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to a fine.

Application in the Case

1. **Attempt to Commit Rape (Sections 376 read with 511 IPC):**
   - For the accused to be convicted under these sections, there must be a clear intention to commit rape, accompanied by an overt act that goes beyond mere preparation and is proximate to the actual commission of the offense.
   - In this case, merely undressing himself and the girl without further actions was deemed insufficient to constitute an attempt to commit rape. The act did not progress to a stage where it could be considered an attempt under Section 511 IPC.
2. **Assault to Outrage Modesty (Section 354 IPC):**
   - The court found that the actions of the accused—removing the girl's innerwear and undressing himself—demonstrated an intention to outrage her modesty.
   - These actions fall squarely within the scope of Section 354 IPC, which penalizes any assault or criminal force used on a woman with the intent to outrage her modesty.

Conclusion

In the described case, the court applied the relevant provisions of the IPC to determine the appropriate charge and punishment. The accused's actions were found to be an assault intended to outrage the modesty of the victim, thus falling under Section 354 IPC. The actions did not meet the threshold for an attempt to commit rape under Sections 376 read with 511 IPC, as they did not go beyond mere preparation.

7 Suppression of Material Facts: Supreme Court dismisses the SLP and imposes a cost of Rs. 25,000 on the petitioners, All India EPF Staff Federation

Why in News?

On June 25, 2024 (Tuesday), the Supreme Court (SC) vacation bench, comprising Justice Abhay S. Oka and Justice Rajesh Bindal, expressed disapproval of lawyers suppressing material facts in Special Leave Petitions (SLPs). The bench was hearing a challenge to a March 20 order by the Delhi High Court (HC) that denied interim relief to the petitioners, the All India EPF Staff Federation. The SC bench dismissed the SLP, imposing a cost of Rs. 25,000 on the petitioners, stating that stringent measures were necessary. The petitioner's main complaint was that the case had been adjourned to September without any interim relief being granted.

Present Case

The All India EPF Staff Federation filed a petition challenging an interim order of the Delhi High Court dated March 20. The primary concern was that without interim relief, the case would be postponed until September. The Supreme Court vacation bench, comprising Justice Abhay S. Oka and Justice Rajesh Bindal, observed that the petitioner had deliberately suppressed the fact that on May 3, the petitioner's counsel failed to press for an early hearing application before the High Court, leading to the next hearing being scheduled for September 5.

During the hearing, the Supreme Court bench indicated that costs would be imposed for the suppression of facts. In response, the petitioner's counsel apologized and urged the Bench not to be so harsh. Justice Oka emphasized that a stringent approach was necessary to address the increasing trend of counsels suppressing court orders and other material facts, which causes inconvenience to judges who have to verify facts independently.

Despite the counsel's insistence that the matter be heard on merits, the Bench expressed displeasure that the counsel continued to pursue the case even after being informed of the factual suppression. The Supreme Court noted that the SLP was filed to challenge the High Court's decision of March 20, 2024, while failing to disclose that an application for an early hearing was filed on May 3, 2024, and subsequently denied, resulting in a September hearing date.

The Supreme Court also observed that the present SLP, filed in June 2024, did not mention the filing of application 26033 of 2024 on May 3 or its subsequent order. Consequently, the SLP was dismissed due to the suppression of material facts, and the petitioner was ordered to pay a cost of ₹25,000.

Court Proceedings

During the proceedings, Justice Oka emphasized the necessity of being strict about petitions where facts are suppressed, stating: "Even if you say we are harsh, we will take it as a compliment because the time has come to come down heavily on such petitions where there is suppression of facts. On Monday and Friday, at least in ten cases, we have to do this exercise of going to the High Court's website to find out the correct orders passed in the petitions".

Justice Oka inquired if the petitioners had moved to the High Court after the impugned order was passed: "Please tell us after the impugned order was passed, did you move to the High Court?... Now we have developed this practice when the matter is pending before the High Court, we go to the website of the High Court and check...because sometimes facts are suppressed. Here also, on May 3, you filed an application for preponement of the date...that application was not pressed".

In response, the counsel for the petitioner denied suppressing facts and asked the bench to review the impugned order. Justice Oka pointed out: "But we are on that. Please see this order. Why was this order suppressed while filing the SLP, tell us?... Your grievance is that without granting interim relief the case has been adjourned to September. Thereafter on May 3, you moved an application for preponing the date...and you have not pressed that application. Please read this order".

The counsel reiterated that their grievance was the denial of interim relief. Justice Oka responded sternly: "Listen to us, the case was adjourned to September, therefore, you moved the Court on May 3 for preponement... that application was not pressed and the matter was adjourned to September...you have suppressed that while filing this SLP...Was it not your duty, before filing the SLP in June, to inform the Court?... We are dismissing your SLP on the grounds of suppression of facts...If you go on arguing this, it will only increase the cost...This is such a sad state of affairs. In the Supreme Court, you suppress such orders and you are brazenly supporting the suppression of facts. We expect the members of the bar to be submissive, you withdraw this or we will impose a cost upon you".

The counsel apologized and mentioned filing two applications before the HC, one of which led to the present SLP. Justice Oka emphasized the seriousness of the situation: "It is not a mistake. We had to download this order from the Delhi High Court's website and point it out to you. What is this going on? This is the highest court in the country, Judges cannot trust the lawyers. Therefore in such matters, they have to go to the High Court's website and download it. Every day, we have to do this".

Suppression of Facts in the Court

Definition

Suppression of facts in the court refers to the deliberate concealment or omission of relevant and material information or facts that are crucial to the matter being adjudicated. This concealment can mislead the court and can be considered an abuse of the legal process.

Consequences

Courts take a strict view of suppression of facts. If it is discovered that a party has withheld material information, the court may refuse to exercise its jurisdiction in favor of that party.

Such actions are often referred to as approaching the court with "dirty hands", implying a lack of good faith.

Legal Precedents and Principles

Case Reference: Arunima Baruah vs Union of India

- **Observation by the Supreme Court:**
  - In the case of Arunima Baruah vs Union of India, the Supreme Court observed that the court may refuse to exercise its discretionary jurisdiction if it finds that the petitioner has approached the court with "dirty hands" by suppressing material facts.
  - This means that a party seeking relief must come to court with clean hands, fully disclosing all material facts relevant to the case.

Suppression of Facts as per the CPC

Definition and Rule

- Suppression of a material fact by a litigant disqualifies them from obtaining any relief. This rule has developed over time to deter litigants from deceiving the court and abusing the judicial process.
- A fact is considered material if its disclosure would have affected the merits of the case.

Implications

- **Material Suppression:** The suppression must be material, meaning its revelation would impact the case's outcome.
- **Court's Duty:** When material facts are suppressed, the court is duty-bound to discharge rule nisi (show cause order) and may consider the litigant in contempt for abusing the court process.
- **Prohibition for Litigants and Advocates:** Both litigants and advocates are prohibited from suppressing or concealing material facts as a litigation strategy.

Success Rate of Special Leave Petitions (SLPs) in the Supreme Court

Filing Timeframe

An SLP must be filed within 90 days of the High Court's judgement or within 60 days of the High Court's refusal to grant a certificate of fitness for appeal.

Acceptance Rate

The Supreme Court admits less than 15% of SLPs to the regular hearing stage after the admissions stage.

What Happens After an SLP is Granted?

Permission to Appeal

When the Supreme Court grants an SLP, the aggrieved party is given special permission to be heard in an appeal against the judgement or order of any court or tribunal in India, excluding Military Tribunals and Court Martial proceedings.

Proceedings

The case proceeds as a regular appeal, where the Supreme Court reviews the merits of the case and delivers a final judgement.

8 ‘Need answers’: Supreme Court issues notice to NTA over NEET-UG 2024 paper leak allegations

Why in News?

The Supreme Court issued a notice to the National Testing Agency (NTA) requesting a response to a plea for a new National Eligibility cum Entrance Test (NEET) undergraduate (UG) 2024 exam, due to allegations of a paper leak and other irregularities. “The sanctity has been affected, we need answers”, stated the top court’s vacation bench, which included Justice Vikram Nath and Justice Ahsanuddin Amanullah, as it linked the petition filed by ten NEET candidates.

Background of the Case

The plea contended that NEET-UG 2024 was marred by malpractices, with the petitioners citing several instances of paper leaks. This alleged leak was claimed to violate Article 14 (right to equality) of the Constitution, as it provided an unfair advantage to some candidates over those who attempted the exam honestly. The NEET-UG exam, conducted by the NTA, is crucial for admissions to MBBS, BDS, AYUSH, and related courses in government and private institutions nationwide.

The NEET-UG 2024 exam took place on May 5, with results announced on June 4.

Additionally, several petitions have been filed in the Supreme Court regarding the NTA’s decision to award grace marks to some candidates. These petitions highlighted irregularities such as discrepancies between students’ scorecards and OMR sheets, an unexpected increase in cut-off and average marks, with an unprecedented 67 candidates achieving perfect scores of 720/720, six of whom were from the same exam center in Haryana. They also questioned the statistical plausibility of students scoring 718 and 719 marks, and the lack of transparency in the criteria or method used for granting compensatory marks for time lost.

Supreme Court’s Directions

A bench comprising Justices Vikram Nath and Ahsanuddin Amanullah observed that the “sanctity has been affected” and stated, “we need answers”. However, the court declined to halt the counselling process for those who passed the exam. Justice Nath remarked, “Let the counselling start. We are not stopping the counselling”, in response to Senior Advocate Mathews J Nedumpara’s request to stay the counselling.

Justice Amanullah addressed the NTA counsel, saying, “It’s not so simple that because you have done it (conducted

the exam), it's sacrosanct. We need answers for that... The sanctity has been affected. So we need answers".

The bench indicated that the matter would be heard immediately upon the court's reopening and mentioned that if more time is required to file the response, the court may halt the counselling. The bench also noted that Chief Justice of India D.Y. Chandrachud's bench is already handling a related matter, scheduled for a hearing on July 8, and decided to tag the current petition for hearing along with the others.

On a related note, during a similar plea on May 17, a CJI-led bench refused to stay the NEET exam results declaration and scheduled the matter for a hearing on July 8.

Public Examinations Act 2024

Context: The Public Examinations (Prevention of Unfair Means) Act, 2024, has been enacted to prevent malpractices in public examinations and common entrance tests across India. This law comes amid controversies over alleged malpractices in NEET and UGC NET examinations.

Key Provisions

1. **Implementation Date:**
   - The Act came into effect on June 21, 2024, as per the notification by the Ministry of Personnel, Public Grievances and Pensions.
2. **Objectives:**
   - To prevent the use of unfair means in public examinations.
   - To enhance transparency, fairness, and credibility in the examination process.
3. **Scope:** Applies to examinations conducted by authorities notified by the central government, including:
   - Union Public Service Commission (UPSC)
   - Staff Selection Commission (SSC)
   - Railway Recruitment Board (RRB)
   - National Testing Agency (NTA)
   - Institute of Banking Personnel Selection (IBPS)
   - Other central government departments and their attached offices for recruitment.
4. **Prohibitions:**
   - Disclosure of exam-related confidential information before time.
   - Unauthorized entry into exam centers to create disruptions.
5. **Penalties:**
   - Offences are punishable with imprisonment ranging from three to five years and a fine up to ₹10 lakh.
   - All offences under the Act are cognisable, non-bailable, and non-compoundable.

NEET-UG 2024 Context

Examination and Results

- NEET-UG 2024 was held on May 5, and results were declared on June 4, ahead of the scheduled announcement date of June 14.
- The exam is conducted by the NTA for admissions to MBBS, BDS, AYUSH, and related courses in government and private institutions.

Supreme Court Proceedings

- On June 13, the NTA informed the Supreme Court that the scorecards of 1563 candidates awarded "grace marks" in NEET-UG 2024 would be cancelled.
- These candidates were given the option to reappear for the exam on June 23, with results to be declared before June 30, or to forgo the compensatory marks given for the loss of time.

Legislative Background

Bill Passage

- The Bill was passed by both Houses of Parliament during the Budget session, concluding on February 10.
- President Droupadi Murmu gave her assent to the Bill on February 13, 2024.

Implications

Sanctity of Examinations

- The Act aims to restore and maintain the sanctity of public examinations by deterring unfair practices and ensuring equal opportunities for all candidates.

Legal and Institutional Enforcement

- The enforcement of this Act is expected to be stringent, with severe penalties for violations to ensure compliance and uphold the integrity of the examination process.

Key Points of the Bill

Offences in Relation to Public Examinations

The Bill outlines several offences associated with public examinations, prohibiting any collusion or conspiracy to facilitate unfair practices. Unfair means include:

- Unauthorised access to or leakage of question papers or answer keys.
- Assisting a candidate during an examination.
- Tampering with computer networks or resources.
- Altering documents used for shortlisting or finalising merit lists or ranks.

- Conducting fake examinations, issuing fake admit cards or offering letters to deceive for monetary gain.

Additionally, the Bill prohibits:

- Disclosing confidential exam-related information prematurely.
- Unauthorised individuals from entering exam centres to create disruptions.

Penalties for these offences range from three to five years of imprisonment and fines up to ₹10 lakh.

Responsibilities of Service Providers

Service providers must report violations to the police and the concerned examination authority. Service providers are organisations that offer computer resources or other support to examination authorities. Failing to report such incidents constitutes an offence. If service providers commit an offence, it must be reported to the police by the examination authority. Service providers are also prohibited from relocating exam centres without permission.

Offences by service providers are punishable with fines up to Rs 1 crore. The proportionate cost of the examination will be recovered from them, and they will be barred from conducting public examinations for four years. If offences involving service providers are committed with the consent or connivance of directors, senior management, or persons-in-charge, those individuals will be personally liable, facing imprisonment from three to ten years and fines up to ₹1 crore.

Organised Crimes

The Bill imposes harsher penalties for organised crimes, defined as unlawful acts by individuals or groups aiming for wrongful gain in relation to public examinations. Those involved in organised crimes face imprisonment from five to ten years and fines of at least ₹1 crore. Institutions found guilty will have their property attached and forfeited, and the proportionate cost of the examination will be recovered.

Inquiry and Investigation

Offences under the Bill are cognisable, non-bailable, and non-compoundable. No action will be considered an offence if it is proven that due diligence was exercised by the accused. Investigations will be conducted by officers not below the rank of Deputy Superintendent or Assistant Commissioner of Police. The central government can transfer investigations to any central investigating agency if necessary.

PRACTICE QUESTIONS

Directions (1-5): Read the following passage and answer the given questions.

The Supreme Court on June 14 asked the National Testing Agency and the Centre to respond to pleas seeking a probe by a committee chaired by a retired Supreme Court or High Court judge or an investigation agency into allegations of question paper leak and discrepancies in the undergraduate National Eligibility-cum-Entrance Test (NEET-UG) 2024. Petitioners appearing before a Vacation Bench of Justices Vikram Nath and Sandeep Mehta urged the "imminent need for a CBI investigation". "Can a CBI investigation be ordered ex parte today? Is that your submission? We are not rejecting your relief, but let them file their response," Justice Nath addressed the lawyers appearing for a clutch of petitioners. One of the petitions, represented by advocate Charu Mathur, said there was a growing demand, even within the Indian Medical Association (IMA) Junior Doctors Network, for a CBI probe into the "record number of students scoring perfect scores". The petition represented by Ms. Mathur highlighted that the Opposition and other leaders of the country have demanded a probe into the NEET results. "This clearly shows there has been illegality and arbitrariness in the evaluations and results of the examination which need to be taken cognisance of and probe needs to be carried out", petitioners Aarsh Samir Vyas and others pointed out. They alleged irregularities like students receiving different marks on their scorecards compared to their OMR sheets; unprecedented inflation of cut-off and average marks resulted in an unprecedented 67 candidates achieving a perfect score of 720/720; six of these toppers were from the same exam centre in Haryana; students having scored 718 and 719 marks, which is "statistically questionable"; no disclosure of method/criteria adopted for grant of compensatory marks for loss of time, etc. Issuing formal notice to the National Testing Agency (NTA), which holds NEET, and the Centre, the court asked them to file their replies in two weeks. The petitions were scheduled for hearing on July 8, along with several others filed earlier. A slew of petitions have been filed in the apex court on the NEET-UG exam, including the award of grace marks.

1. **Which judicial body asked the National Testing Agency (NTA) and the Centre to respond to pleas regarding NEET-UG 2024?**
   (*a*) High Court
   (*b*) District Court
   (*c*) Supreme Court
   (*d*) International Court of Justice
2. **Who chaired the Vacation Bench that addressed the issue of a probe into NEET-UG 2024?**
   (*a*) Justice Vikram Nath and Justice Sandeep Mehta
   (*b*) Justice Charu Mathur and Justice Aarsh Samir Vyas
   (*c*) Justice Nath and Justice Samir Vyas
   (*d*) Justice Mathur and Justice Vikram Nath
3. **What kind of investigation did the petitioners urge for the NEET-UG 2024 allegations?**
   (*a*) RAW Investigation
   (*b*) Police Investigation
   (*c*) CBI Investigation
   (*d*) Private Investigation
4. **How many candidates achieved a perfect score of 720/720 in NEET-UG 2024 according to the petitioners?**
   (*a*) 10
   (*b*) 50
   (*c*) 67
   (*d*) 100
5. **What did the petitioners highlight regarding the Indian Medical Association (IMA) Junior Doctors Network?**
   (*a*) They supported the current NEET results
   (*b*) They demanded a reduction in NEET cut-off marks
   (*c*) They called for a CBI probe into the NEET results
   (*d*) They wanted NEET to be conducted biannually

Directions (6-10): Read the following passage and answer the given questions.

The Rajasthan High Court ruling in a 33-year-old case has stated that the act of removing a minor girl's inner wear and making oneself naked will not attract the offence of 'attempt to commit rape'. In the case, which dates back to March 9, 1991, from Todaraisingh in Tonk district, in which the complainant's then six-year-old grand-daughter was accosted by the accused Suvalal when she had gone out to drink water around 8 pm in the night and forcefully took her into a nearby dharamshala, where he took off her inner wear and undressed himself. When the child cried for help, the villagers rushed and rescued her. During the course of trial, the prosecution examined as many as seven witnesses and exhibited five documents. Thereafter, the statements of the appellant were recorded under Section 313 CrPC. While delivering the judgment in this case, the single bench of Justice Anup Kumar Dhand stated that taking off a girl's underwear and getting naked oneself does not fall under Section 376 and Section 511 of the IPC and will not attract the offence of 'attempt to commit rape'. IPC Section 376 says whoever commits sexual assault would face an imprisonment of not less than seven years and which may extend upto 10 years and shall also be liable to fine. Section 511 applies to attempts to commit offences which are punishable with any imprisonment under the IPC. The court ruled that the act would attract the offence of 'outraging the modesty of a woman' punishable under Section 354 of the IPC. The ruling was given on May 13, 2024. The judge wrote "In my opinion, from these facts no case for offence under Section 376/511 IPC can be held to be proved. In other words, the accused appellant cannot held to be guilty of attempt to commit rape. The prosecution has been able to prove the case of assault or use of illegal force on the prosecutrix with an intention to outrage modesty or with knowledge that her modesty was likely to be outraged. Thus, it is a clear case of Section 354 IPC as the act of the present accused has not proceeded beyond the state of preparation".

6. **What was the main ruling of the Rajasthan High Court in the 33-year-old case involving the minor girl?**
   (*a*) The accused was found guilty of attempt to commit rape.
   (*b*) The accused was found guilty of outraging the modesty of a woman.
   (*c*) The accused was acquitted of all charges.
   (*d*) The accused was found guilty of aggravated sexual assault under the POCSO Act.

7. **Which sections of the Indian Penal Code (IPC) were mentioned in the judgment as not applicable for the offence of 'attempt to commit rape'?**
   (*a*) Sections 376 and 354
   (*b*) Sections 354 and 511
   (*c*) Sections 376 and 511
   (*d*) Sections 354 and 376

8. **What is the significance of Section 354 of the IPC in this case?**
   (*a*) It deals with punishment for rape.
   (*b*) It deals with punishment for outraging the modesty of a woman.
   (*c*) It deals with punishment for aggravated sexual assault.
   (*d*) It deals with punishment for attempt to commit rape.

9. **Why do child rights activists find the delay in delivering justice in this case noteworthy?**
   (*a*) Because the accused was acquitted after 33 years.
   (*b*) Because the case took 33 years to reach a conclusion, exemplifying the phrase 'justice delayed is justice denied'.
   (*c*) Because the ruling was not based on the POCSO Act.
   (*d*) Because the victim was an adult.

10. **What would have potentially changed if the POCSO Act had been applicable at the time of the incident?**
    (*a*) The case would have been dismissed.
    (*b*) The accused would have been acquitted.
    (*c*) The case might have been viewed as aggravated sexual assault with a higher sentence.
    (*d*) The case would have been tried in a different court.

Directions (11-15): Read the following passage and answer the given questions.

Recently, three judges bench of Supreme Court in the case of Ravikumar Dhansukhlal Maheta v. High Court of Gujarat, held that no government servant can claim promotion as their right because the Constitution does not prescribe criteria for filling seats in promotional posts. The courts cannot sit in review to decide whether the policy adopted for promotion is suited to select the 'best candidates', unless on the limited ground where it violates the principle of equal opportunity under Article 16 of the Constitution. Promotion as understood under the service law jurisprudence means advancement in rank, grade or both. Promotion is always a step towards advancement to a higher position, grade or honour. (Tarsen Singh vs. State of Punjab - 1994 (5) SCC 392) A Constitution Bench of the Supreme Court held that "Article 14 and Article 16(1) are closely connected. They deal with the individual rights of a person. Article 14 demands that the State shall not deny to any person equality before the law or the equal protection of the laws. Article 16(1) issues a positive command that there shall be equality of opportunity for all citizens in matters relating to employment or appointment

to any office under the State". The Court has repeatedly held that clause (1) of Article 16 is a facet of Article 14 and that it takes its roots from Article 14. The clause particularizes the generality in Article 14 and identifies, in a constitutional sense, "equality of opportunity in matters of employment and appointment to any office under the State". The word "employment" being wider, there is no dispute that it includes promotions to posts above the initial level of recruitment. Article 16(1) provides every employee otherwise eligible for promotion, or who comes within the zone of consideration, a fundamental right to be considered for promotion. Equal opportunity here means the right to be considered for promotion. If a person satisfies the eligibility and zone criteria but is not considered for promotion, there will be a clear infraction of their fundamental right to be considered for promotion, which is their personal right. Promotion based on equal opportunity and seniority attached to such promotion are facets of the fundamental right under Article 16(1). (Ajit Singh vs. State of Punjab, (1999) 7 SCC 209).

11. What was the main ruling of the Supreme Court in the case of Ravikumar Dhansukhlal Maheta v. High Court of Gujarat regarding government servants and promotion?

(*a*) Government servants have a constitutional right to promotion.

(*b*) Government servants can claim promotion as their right.

(*c*) The Constitution prescribes criteria for filling seats in promotional posts.

(*d*) No government servant can claim promotion as their right.

12. According to the Supreme Court's interpretation, what does Article 16(1) of the Constitution provide?

(*a*) A fundamental right to be considered for promotion.

(*b*) A guarantee of promotion for all government employees.

(*c*) A right to a specific promotion policy.

(*d*) A mandate for equal pay for equal work.

13. In which case did the Supreme Court hold that Article 14 and Article 16(1) are closely connected?

(*a*) Tarsen Singh vs. State of Punjab

(*b*) Ajit Singh vs. State of Punjab

(*c*) Syed Habibur Rahman v. The State of Assam

(*d*) Ravikumar Dhansukhlal Maheta v. High Court of Gujarat

14. What is the consequence of denying eligible candidates the opportunity to be considered for promotion according to the Supreme Court?

(*a*) It violates their right to equal pay for equal work.

(*b*) It results in a clear infraction of their fundamental right to be considered for promotion.

(*c*) It violates their right to a specific promotion policy.

(*d*) It results in automatic promotion for the candidates.

15. Which case emphasized that the right to be considered for promotion is a facet of a fundamental right?

(*a*) Tarsen Singh vs. State of Punjab

(*b*) Ajit Singh vs. State of Punjab

(*c*) Syed Habibur Rahman v. The State of Assam

(*d*) Ravikumar Dhansukhlal Maheta v. High Court of Gujarat

Directions (16-20): Read the following passage and answer the given questions.

In a recent judgment, the Gujarat High Court upheld the acquittal of an accused in a murder case, emphasizing the need for corroboration of an oral dying declaration. The division bench of Justices Ilesh J. Vora and Niral R. Mehta stated that while an oral dying declaration can form the basis of a conviction if the deponent is in a fit state and truthful, prudence requires seeking corroboration to ensure reliability.

The case involved the 1997 murder of Ranchhodbhai and his son Arvind, allegedly by Shashikant Patel and others. Arvind's oral dying declaration to a police witness was questioned due to the lack of corroboration and his critical condition. The Court found no error in the Trial Court's decision to acquit the accused, agreeing that the oral declaration alone was insufficient for conviction.

The case, titled "State of Gujarat vs. Shashikant Gordhanbhai Patel & Ors". (R/CRIMINAL APPEAL NO. 816 of 1999), was decided by Justice Ilesh J. Vora and Justice Niral Mehta. The present appeal by the State challenges the judgment and order of acquittal rendered by the learned Additional Sessions Judge, Kheda, Camp at Anand, dated 12.04.1999. The respondents were acquitted of offenses under Sections 302, 323, 365, 342, 147, 148 and 149 of the Indian Penal Code. Dissatisfied with this judgment, the State has filed the current appeal under Section 378 of the Cr.P.C. Mr. L.B. Dabhi, the learned Additional Public Prosecutor for the appellant – State, argued that the findings of acquittal are contrary to the law and the evidence on record. He asserted that the trial court's findings were palpably erroneous and based on irrelevant material. The trial court should have considered the oral dying declaration of the deceased, which was made voluntarily when the deceased was in a fit state of mind. Janardan Mahida (PW-16), an independent witness, had no reason to falsely implicate the accused. By disregarding this material evidence, the trial court committed an error of law in concluding that the prosecution failed to prove its case.

16. **What was the key reason for the Gujarat High Court upholding the acquittal of the accused in the murder case?**
   (*a*) Lack of motive for the murder.
   (*b*) Lack of corroboration for the oral dying declaration.
   (*c*) The accused had a strong alibi.
   (*d*) Inconsistent witness testimonies.

17. **Which sections of the Indian Penal Code (IPC) were the respondents acquitted of by the Additional Sessions Judge, Kheda, Camp at Anand?**
   (*a*) Sections 302, 323, 365, 342, 147, 148 and 149
   (*b*) Sections 302, 304, 307, 325, 341, 147 and 148
   (*c*) Sections 302, 323, 307, 365, 341, 147 and 148
   (*d*) Sections 302, 304, 307, 323, 341, 147 and 148

18. **Why did the learned counsel for the respondents argue that the High Court should not interfere in the appeal against acquittal?**
   (*a*) Because the accused had already served their sentences.
   (*b*) Because the trial court's findings were based on irrelevant material.
   (*c*) Because the High Court can only interfere if there are compelling and substantial reasons.
   (*d*) Because the evidence was overwhelming in favor of the accused.

19. **What did Mr. L.B. Dabhi, the learned Additional Public Prosecutor for the appellant – State, argue regarding the trial court's findings?**
   (*a*) The findings were based on false evidence.
   (*b*) The findings were palpably erroneous and based on irrelevant material.
   (*c*) The findings were in favor of the accused.
   (*d*) The findings were not based on the oral dying declaration.

20. **What was the medical evidence's conclusion about the deceased, Arvind, regarding his condition at the time of the alleged oral dying declaration?**
   (*a*) Arvind was in a fit state of mind and spoke clearly.
   (*b*) Arvind was in a semi-unconscious state and declared 'brought dead' by the doctor.
   (*c*) Arvind was in a critical condition but could speak.
   (*d*) Arvind's injuries were not severe enough to prevent him from speaking.

Answer Key

1. (*c*)	**2.** (*a*)	**3.** (*c*)	**4.** (*c*)	**5.** (*c*)	**6.** (*b*)	**7.** (*c*)	**8.** (*b*)	**9.** (*b*)	**10.** (*c*)
11. (*d*)	**12.** (*a*)	**13.** (*b*)	**14.** (*b*)	**15.** (*c*)	**16.** (*b*)	**17.** (*a*)	**18.** (*c*)	**19.** (*b*)	**20.** (*b*)

Solution

1. (*c*) Supreme Court The Supreme Court is hearing a plea which sought the NTA to reconduct the NEET-UG 2024 exams on the grounds of alleged question paper leak and other malpractices.

2. (*a*) Justice Vikram Nath and Justice Sandeep Mehta

A vacation bench of Justices Vikram Nath and Sandeep Mehta issued notices to parties on the plea of National Testing Agency (NTA), which sought transfer of petitions from high courts to the apex court.

The Supreme Court will take up NTA's petition on July 8.

3. (*c*) CBI Investigation Petitioners appearing before a Vacation Bench of Justices Vikram Nath and Sandeep Mehta urged the "imminent need for a CBI investigation".

4. (*c*) 67 A record 67 candidates scored 720 in NEET-UG, with higher cut-offs this year. NTA announced results, resolving a disputed question from NCERT textbook.

5. (*c*) They called for a CBI probe into the NEET results One of the petitions, represented by advocate Charu Mathur, said there was a growing demand, even within the Indian Medical Association (IMA) Junior Doctors Network, for a CBI probe into the "record number of students scoring perfect scores".

6. (*b*) The accused was found guilty of outraging the modesty of a woman. The Rajasthan High Court ruled that the act of removing a minor girl's inner wear and making oneself naked does not attract the offence of 'attempt to commit rape' under Section 376 and Section 511 of the IPC, but instead falls under the offence of

'outraging the modesty of a woman' punishable under Section 354 of the IPC.

7. (*c*) Sections 376 and 511 The court ruled that taking off a girl's underwear and getting naked oneself does not fall under Section 376 (which deals with punishment for rape) and Section 511 (which deals with attempts to commit offences punishable with imprisonment under the IPC).

8. (*b*) It deals with punishment for outraging the modesty of a woman. Section 354 of the IPC is relevant in this case as it pertains to the punishment for outraging the modesty of a woman, which is the offence the court found the accused guilty of committing.

9. (*b*) Because the case took 33 years to reach a conclusion, exemplifying the phrase 'justice delayed is justice denied'. Child rights activists are more intrigued by the delay in delivering justice, highlighting that it took 33 years for the case to reach a conclusion, which is a significant example of 'justice delayed is justice denied'.

10. (*c*) The case might have been viewed as aggravated sexual assault with a higher sentence. If the POCSO Act had been applicable at the time, the case might have been viewed very differently, potentially as aggravated sexual assault, which could attract a higher sentence due to the comprehensive nature of the POCSO Act in addressing child sexual abuse.

11. (*d*) No government servant can claim promotion as their right.

The Supreme Court ruled that no government servant can claim promotion as their right because the Constitution does not prescribe criteria for filling seats in promotional posts.

The court also stated that it cannot review the policy adopted for promotion unless it violates the principle of equal opportunity under Article 16.

12. (*a*) A fundamental right to be considered for promotion.

Article 16(1) provides every employee, otherwise eligible for promotion, a fundamental right to be considered for promotion.

It ensures equal opportunity in matters of employment and appointment to any office under the State.

13. (*b*) Ajit Singh vs. State of Punjab In the case of Ajit Singh vs. State of Punjab, the Supreme Court held that Article 14 and Article 16(1) are closely connected, and Article 16(1) is a facet of Article 14, which deals with the individual rights of a person and equality of opportunity in matters of employment and appointment to any office under the State.

14. (*b*) It results in a clear infraction of their fundamental right to be considered for promotion. If eligible candidates who come within the zone of consideration are not considered for promotion, it results in a clear infraction of their fundamental right to be considered for promotion, which is their personal right.

15. (*c*) Syed Habibur Rahman v. The State of Assam The case of Syed Habibur Rahman v. The State of Assam emphasized that the right to be considered for promotion is a facet of a fundamental right, and authorities cannot deny eligible candidates the opportunity for promotion when there are vacancies available.

16. (*b*) Lack of corroboration for the oral dying declaration.

The Gujarat High Court emphasized the need for corroboration of an oral dying declaration, especially when the deponent was in a critical condition.

The court found that the oral dying declaration alone was insufficient for conviction without corroborative evidence.

17. (*a*) Sections 302, 323, 365, 342, 147, 148 and 149

The respondents were acquitted of offenses under Sections 302, 323, 365, 342, 147, 148 and 149 of the IPC.

Dissatisfied with this judgment, the State has filed the current appeal under Section 378 of the Cr.P.C.

18. (*c*) Because the High Court can only interfere if there are compelling and substantial reasons. The learned counsel for the respondents argued that the High Court should only interfere in an appeal against acquittal when there are compelling and substantial reasons, such as findings that are without reason, unreasonable, or contrary to the evidence.

19. (*b*) The findings were palpably erroneous and based on irrelevant material. Mr. L.B. Dabhi argued that the trial court's findings were palpably erroneous and based on irrelevant material, and that the trial court should have considered the oral dying declaration of the deceased.

20. (*b*) Arvind was in a semi-unconscious state and declared 'brought dead' by the doctor. The medical evidence established that the deceased, Arvind, was in a semi-unconscious state when brought to the hospital and was declared 'brought dead' by the doctor, which justified the trial court's decision to disbelieve the oral dying declaration.

PW LAW WALLAH

CLAT ACHIEVERS 2025

For **CLAT & AILET**

Daily Practice Problems With Video Solutions

20 Sectional Tests

22 Monthly Magazines

3000+ Questions Bank

10 Study e-Modules

15 Mock **Test Series**

SAVE BIG on **CLAT ACHIEVERS 2025** Enrolment

Enjoy a **Discount** of **FLAT ₹ 500/- Off** with **COUPON CODE** **CLAT500**

PW LAW WALLAH

CLAT ACHIEVERS Pro 2025

For **CLAT, AILET & OLETs**

Daily Practice Problems With Video Solutions

Monthly Magazines of Current Affairs & Legal Reasoning (January 2024 to April 2025)

10,000+ Questions Bank in DPP Format & Lecture Notes

30 Study E-Modules & Practice E-Modules

Annual subscription to access all the upcoming batches of **CLAT 2025**

Khazana Package: 120+ Best Lectures of CLAT 2024

80+ Hours Marathon Revision Lectures (Oct-Nov. 2024)

30 Mock Test Series with video solutions

10,000+ Infinite Practice Questions (Passage Based)

SAVE BIG on **CLAT ACHIEVERS Pro 2025** Enrolment

Enjoy a **Discount** of **FLAT ₹ 500/- Off** with **COUPON CODE** **CLAT500**

LAW WALLAH

MENTORS

MANSI JAIN

(LEGAL REASONING)

- 12+ years of Teaching experience in CLAT/CATGMAT/SAT
- B.A.(H) Geography, LL.B, LL.M
- Mentoring 5000+ CLAT and other law entrance aspirants

ISRAA RAIS

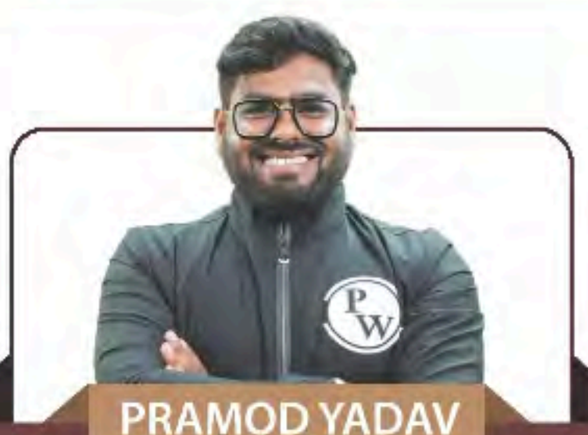
(LEGAL REASONING)

- 3+ Years of Teaching Experience in Judicial Services Examinations
- B.A LL.B./LL.M. (Constitutional Law)

PRAKHAR MISHRA

(CURRENT AFFAIRS)

- 3+ years of teaching experience
- BBA LLB (Hons), National Law University Odisha
- Mentored 3000+ CLAT aspirants



PRAMOD YADAV

(QUANTITATIVE TECHNIQUES)

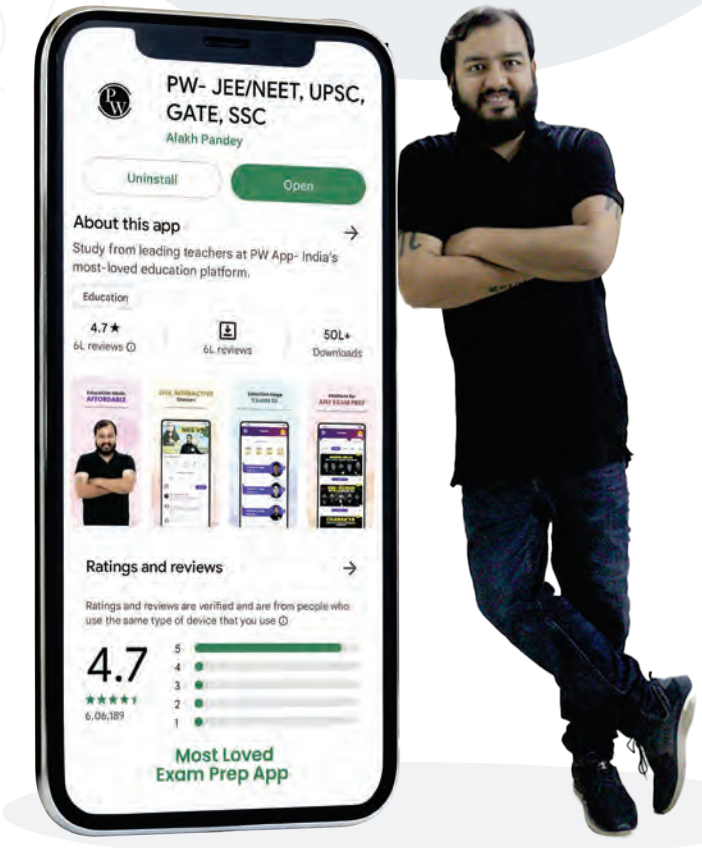
- 6+ years of Teaching Experience in Government Exams
- B.S.C. in Mathematics

JUHI NARULA

(ENGLISH & LOGICAL REASONING)

- 12+ years of Teaching Experience in CAT/GMAT/GRE/SAT
- MHRM, B.Tech

LAW WALLAH



INDIA'S MOST LOVED

Educational Channel And Platform

4.8★ Rating	**20M+** Subscribers
8M+ Downloads	**8000**hrs Video Content/Week

If you have any queries or need assistance with admission in PW Classes **here is what you can do**

PW APP

PW CLAT INSTAGRAM

PW CLAT YOUTUBE

PW CLAT TELEGRAM

www.pw.live

Talk to our Counselor give a **Missed Call on:**

+91-7019243492

THANK You